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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,604	07/05/2001	Patrick Justin Laffey	AUS9-2001-0336-US1	4068

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EXAMINER

TRAN, MYLINH T

ART UNIT	PAPER NUMBER
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2174

3

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Handwritten mark resembling a stylized 'C' or 'G'.

**Office Action Summary**

Application

09/899,604

Applicant(s)

LAFHEY ET AL.

Examiner

Mylinh T Tran

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 2174

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

On lines 7, 10 and 13, "e.g." should be avoided.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-4, 10-11 and 17-18 are rejected under 35 U.S.C. 112, second paragraph, the phrase "said highlighted icons" being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "said highlighted icons" is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2174

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8-11, 15-18, 22, 25 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Erten et al. [US.2001/0030668].

As to claims 1, 8, 15, 22, 25 and 28, Erten et al. discloses user controlled means for moving an on-screen pointer to approach said selectable items (0075 and 0088) and means for highlighting all items in any set of a plurality of said items wherein each item in the set is within a predetermined distance of said approaching pointer (0077).

As to claims 2, 9 and 16, Erten et al. also discloses the selectable items are icons (0075 and 0081).

As to claims 3, 10 and 17, Erten et al. shows means for ending said highlighting of each of said highlighted icons when the pointer moves outside of said predetermined distance for said icon (0077, Erten et al. cites "If the stack is full, the system examines the stored mouse positions to determine whether they are all inside the bounding box around the item or the icon. The system checks if positions are all inside. If yes, the system then can highlight the item, and clear stack before returning to step 154. If positions are not all inside, the user can throw out the oldest mouse coordinate from the stack, and then return to step 154).

As to claims 4, 11 and 18, Erten et al. also shows means for ending said highlighting of each of said highlighted icons after a predetermined period of time (0077).

***Claim Rejections - 35 USC § 103***

Claims 5-7, 12-14, 19-21, 23-24, 26-27 and 29-30 rejected under 35 U.S.C.

103(a) as being unpatentable over Erten in view of Davie et al. [US. 5,973,665].

As to claims 5, 12 and 19, the difference between the claim and Erten is means for highlighting sequentially highlight each icon in said set. Davie et al. shows the feature at column 3, lines 63-68 and column 4, lines 18-25 .... "to highlight the first, last , all or some number of instances of display elements...). It would have been obvious to one of ordinary skill in the art, having the teachings of Erten and Davie et al. before him at the time the invention was made to modify the plurality of highlighting icons taught by Erten to include the method of highlighting sequentially highlight each icon of the system of Davie et al. in order to help a user easily distinguish his target icon as taught by Davie et al.

As to claims 6, 13 and 20, while Erten et al. also provides including means for enabling the user selection of each sequentially highlighted item during said period of time (column 4, lines 19-25), Davie et al. shows means for sequentially highlighting said set of icons highlight each icon in the set for a defined period of time (0077).

As to claims 7, 14 and 21, Erten et al. demonstrates the icons in said setting overlap each other (0075).

As to claims 23, 26 and 29, Erten et al. also demonstrates user controlled means for moving an on-screen pointer to approach a cluster of said selectable items (0075); means for determining whether the items in said cluster have sufficient separation for said pointer to select separate items in said cluster (0077); the difference between the claim and Erten is means responsive to said determining means for sequentially highlighting each item in said cluster when there is insufficient separation. Davie et al.

Art Unit: 2174

shows the feature at column 3, lines 63-68 and column 4, lines 18-25 ....“to highlight the first, last , all or some number of instances of display elements...). It would have been obvious to one of ordinary skill in the art, having the teachings of Erten and Davie et al. before him at the time the invention was made to modify the plurality of highlighting icons taught by Erten to include the method of highlighting sequentially highlight each icon of the system of Davie et al. in order to help a user easily distinguish his target icon as taught by Davie et al.

As to claims 24, 27 and 30, Erten et al. discloses each item being activated for selection when highlighted (0079, “this positioning highlights the selected item, or changes its foreground and background color scheme of the said item to indicate that it has been selected”).

### ***Conclusion***

Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires fax a response, (703) 746-7238), may be used for formal After Final communications, (703) 746-7239 for Official communications, or (703) 746-7240 for Non-Official or draft communications. NOTE, A Request for Continuation (Rule 60 or 62) cannot be faxed.

Please label “PROPOSED” or “DRAFT” for information facsimile communications. For after final responses, please label “AFTER FINAL” or “EXPEDITED PROCEDURE” on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran whose telephone number is (703) 308-

Art Unit: 2174

1304. The examiner can normally be reached on Monday-Friday from 8.00AM to 4.30PM

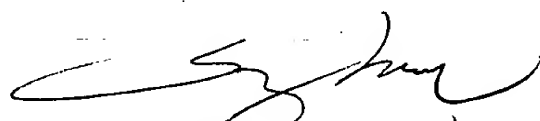
If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640,

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Mylinh Tran

Art Unit 2174

  
S.D. LUU  
PRIMARY EXAMINER